

Memorandum

To : Honorable John Chiang, Chair
Honorable Claude Parrish, Vice Chairman
Ms. Betty T. Yee, Acting Member
Honorable Bill Leonard
Honorable Steve Westly

Date : March 17, 2005

From : Ramon J. Hirsig
Executive Director



Subject : **Executive Director's Report – March 22, 2005**
Streamlined Sales Tax Project

Attached for your information is a brief summary of California's participation in the Streamlined Sales Tax Project (SSTP), prepared by Larry Bergkamp, the BOE's Streamlined Sales Tax Coordinator. This matter will be discussed at the March 22, 2005 Board Meeting.

Please feel free to contact me if you have any questions.

RJH:rar

Attachments

M e m o r a n d u m

To : Mr. Ramon J. Hirsig
Executive Director

Date : March 16, 2005

From : Larry Bergkamp
Streamlined Sales Tax Coordinator



Subject : **Executive Director's Report – March 22, 2005**
Streamlined Sales Tax Project

As requested, following is a brief summary of California's participation in the Streamlined Sales Tax Project (SSTP).

The SSTP is an effort created by state governments, with input from local governments and the private sector, to simplify and modernize sales and use tax collection and administration. The SSTP was established in March 2000 and currently consists of 41 states and the District of Columbia.

The primary purpose of the SSTP is to collect use tax from retailers not engaged in business in a member state. A recent Board of Equalization report estimated a revenue loss of \$1.345 billion resulting from electronic commerce and mail order sales. This is comprised of \$490 million in business to consumer sales and \$855 million in business to business sales. The business to business sales amount represents 20% noncompliance.

The SSTP is comprised of three groups, the Project, Implementing States, and Conforming States Committee. The Project is a workgroup that addresses issues that are raised by state or business representatives relating to the Streamlined Sales and Use Tax Agreement (SSUTA). Several subcommittees review new issues or suggested revisions to the SSUTA. The Project solicits input from state and business representatives. The Project can forward issues to the Implementing States group to consider an amendment to the SSUTA.

The Implementing States group is comprised of states that have been authorized to participate in the SSTP as a voting member. The Implementing States group is responsible for the SSUTA, including the disposition of all proposed amendments.

The Conforming State Committee is limited to states that have passed legislation to conform to the SSUTA. Currently there are 21 Conforming States. The Conforming States Committee is responsible for the administrative mechanisms and staffing necessary to implement the SSUTA and to establish the groundwork for the operational implementation of the Agreement and the establishment of the Governing Board.

It should be noted that although 21 states have passed conforming legislation, several Conforming States have experienced problems when implementing the legislation. These states may be required to introduce cleanup legislation or are pursuing approval for delayed implementation of some areas of the SSUTA at the SSTP.

California became an Observer State in March 2003, as authorized by the Board of Equalization. As an Observer State, California was allowed to participate in the SSTP meetings and discussions; however, was not permitted to vote on issues to amend the SSUTA.

In January 2004, California became an Implementing State in the SSTP as authorized by Senate Bill 157. As an Implementing State, California can vote on issues to amend the SSUTA. Senate Bill 157 also established a Board of Governance (BOG) to represent California at the SSTP and a requirement for the BOG to report to the Senate and Assembly Revenue and Taxation Committees on California's involvement in the SSTP.

The BOG is comprised of the following members:

- Chairman, Honorable John Chiang, Chairman, Board of Equalization
- Vice-Chairman, Honorable Steve Westly, State Controller, representing the FTB
- Honorable Roy Ashburn, California State Senate
- Honorable Debra Bowen, California State Senate
- Honorable Rudy Bermudez, California State Assembly
- Honorable Mark Wyland, California State Assembly
- Ms. Anne Sheehan – Department of Finance

California is a member of the Project and the Implementing States groups. Although California is a voting member, the BOG has not authorized me to vote on issues raised at either the Project or Implementing States meetings. The next BOG meeting is scheduled for April 13, 2005.

I began attending SSTP meetings as a representative for California in May 2003. In this capacity I provided information to the SSTP on the application of sales and use tax in California and reported the activities of the SSTP to the BOG and Board of Equalization.

Conforming to the SSUTA would require significant changes to California's current sales and use tax statutes, regulations and administrative policies. The ultimate impact cannot be fully understood until a comparative analysis is completed. The BOG requested a comprehensive comparative analysis to determine the impact of conforming to the SSUTA on the state, local governments and businesses. The BOG requested that the analysis be a joint effort between state, local governments and businesses. To facilitate this requirement, a website was established and an informational meeting was scheduled to provide a forum for interested parties to obtain information and discuss the SSTP and California's involvement. The first informational meeting was held on December 7, 2004. A second informational meeting is tentatively planned for May or June 2005. The website www.boe.ca.gov/sstp, is used to post information on California's involvement in the SSTP and to distribute the analysis of the SSUTA for review and comment. Three sections of the SSUTA have been analyzed and posted on the SSTP website for review by interested parties. Each section provides a date by which comments are requested. I have estimated that the comprehensive comparative analysis of the entire SSUTA will not be completed until 2007.

Our preliminary review has identified the following issues relating to:

California

- May realize an increase in revenue from remote electronic and mail order retailers estimated at \$892 million.
- May realize revenue changes resulting from the requirements to adopt administrative and product definitions.
- May realize a reduction in administrative costs resulting from reduced audit and compliance activities.
- Could impact the responsibility of the Governor, Legislature, Board of Equalization, and courts.
- Administration and interpretation of the SSUTA are the responsibility of the Governing Board.
- California would receive one vote on issues before the Governing Board.
- The Governing Board fee structure would result in California paying the highest fee of all member states.
- Actions that result in a member state being found out of compliance with the SSUTA could result in sanctions by the Governing Board.
- Legislation was introduced in 2004 in California to conform to one section of the SSUTA.

Local taxing jurisdictions

- May realize an increase in revenue from remote electronic and mail order retailers. Local tax is estimated at \$340 million, Transit tax is estimated at \$113 million.
- Revenue shifts will result from a change from origin to destination based sourcing rules.
- May realize a revenue shift resulting from requirements for identical tax bases at the state and local level and the adoption of administrative and product definitions.

Businesses

- Uniform registration and reporting systems will be used in all member states.
- Access to tax rate databases and a taxability matrix in all member states.
- Uniform exemption certificates will be used by all member states.
- The good faith requirements for supporting exempt transactions will be relaxed.
- Monetary allowances will be provided to qualifying retailers.
- The use of certified service providers or certified software would reduce audits of retailers.
- Relief of audit liabilities would be expanded.
- If an audit were performed it would be a multistate audit for all member states.
- Would create a single definition for administrative terms and specific products, such as, health care and medical products, food products, computer hardware and software, leases and rentals, drop shipments, manufacturer coupons and discounts, and bundled transactions in all member states.
- Administrative or interpretation appeals would be made to a single entity for all member states.
- Initial cost may be experienced to reprogram cash registers or purchase certified software.

The Chair of the Board of Equalization represents the Board of Equalization on the BOG. Input from the Board of Equalization Members is welcome and will shape the direction the BOG takes as it continues to evaluate the SSUTA. As an employee of the Board of

Equalization and a representative of the BOG, I look forward to working with our Members on issues relating to the SSTP.

LB:ag

cc: Ms. Randie Henry
Ms. Raye Zentner
Ms. Anita Gore